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HOUSE BILL 2590

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Lantz, Roach, Simpson, McCoy, Kenney, and Chase

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1            AN ACT Relating to conserving forest lands; and amending RCW  
2 84.33.140 and 84.33.145.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 84.33.140 and 2007 c 54 s 24 are each amended to read  
5 as follows:

6            (1) When land has been designated as forest land under RCW  
7 84.33.130, a notation of the designation shall be made each year upon  
8 the assessment and tax rolls. A copy of the notice of approval  
9 together with the legal description or assessor's parcel numbers for  
10 the land shall, at the expense of the applicant, be filed by the  
11 assessor in the same manner as deeds are recorded.

12            (2) In preparing the assessment roll as of January 1, 2002, for  
13 taxes payable in 2003 and each January 1st thereafter, the assessor  
14 shall list each parcel of designated forest land at a value with  
15 respect to the grade and class provided in this subsection and adjusted  
16 as provided in subsection (3) of this section. The assessor shall  
17 compute the assessed value of the land using the same assessment ratio  
18 applied generally in computing the assessed value of other property in

1 the county. Values for the several grades of bare forest land shall be  
2 as follows:

3	LAND	OPERABILITY	VALUES
4	GRADE	CLASS	PER ACRE
5		1	\$234
6	1	2	229
7		3	217
8		4	157
9		1	198
10	2	2	190
11		3	183
12		4	132
13		1	154
14	3	2	149
15		3	148
16		4	113
17		1	117
18	4	2	114
19		3	113
20		4	86
21		1	85
22	5	2	78
23		3	77
24		4	52
25		1	43
26	6	2	39
27		3	39
28		4	37
29		1	21
30	7	2	21
31		3	20
32		4	20
33	8		1

34 (3) On or before December 31, 2001, the department shall adjust by  
35 rule under chapter 34.05 RCW, the forest land values contained in  
36 subsection (2) of this section in accordance with this subsection, and

1 shall certify the adjusted values to the assessor who will use these  
2 values in preparing the assessment roll as of January 1, 2002. For the  
3 adjustment to be made on or before December 31, 2001, for use in the  
4 2002 assessment year, the department shall:

5 (a) Divide the aggregate value of all timber harvested within the  
6 state between July 1, 1996, and June 30, 2001, by the aggregate harvest  
7 volume for the same period, as determined from the harvester excise tax  
8 returns filed with the department under RCW 84.33.074; and

9 (b) Divide the aggregate value of all timber harvested within the  
10 state between July 1, 1995, and June 30, 2000, by the aggregate harvest  
11 volume for the same period, as determined from the harvester excise tax  
12 returns filed with the department under RCW 84.33.074; and

13 (c) Adjust the forest land values contained in subsection (2) of  
14 this section by a percentage equal to one-half of the percentage change  
15 in the average values of harvested timber reflected by comparing the  
16 resultant values calculated under (a) and (b) of this subsection.

17 (4) For the adjustments to be made on or before December 31, 2002,  
18 and each succeeding year thereafter, the same procedure described in  
19 subsection (3) of this section shall be followed using harvester excise  
20 tax returns filed under RCW 84.33.074. However, this adjustment shall  
21 be made to the prior year's adjusted value, and the five-year periods  
22 for calculating average harvested timber values shall be successively  
23 one year more recent.

24 (5) Land graded, assessed, and valued as forest land shall continue  
25 to be so graded, assessed, and valued until removal of designation by  
26 the assessor upon the occurrence of any of the following:

27 (a) Receipt of notice from the owner to remove the designation;

28 (b) Sale or transfer to an ownership making the land exempt from ad  
29 valorem taxation;

30 (c) Sale or transfer of all or a portion of the land to a new  
31 owner, unless the new owner has signed a notice of forest land  
32 designation continuance, except transfer to an owner who is an heir or  
33 devisee of a deceased owner, shall not, by itself, result in removal of  
34 designation. The signed notice of continuance shall be attached to the  
35 real estate excise tax affidavit provided for in RCW 82.45.150. The  
36 notice of continuance shall be on a form prepared by the department.  
37 If the notice of continuance is not signed by the new owner and  
38 attached to the real estate excise tax affidavit, all compensating

1 taxes calculated under subsection (11) of this section shall become due  
2 and payable by the seller or transferor at time of sale. The auditor  
3 shall not accept an instrument of conveyance regarding designated  
4 forest land for filing or recording unless the new owner has signed the  
5 notice of continuance or the compensating tax has been paid, as  
6 evidenced by the real estate excise tax stamp affixed thereto by the  
7 treasurer. The seller, transferor, or new owner may appeal the new  
8 assessed valuation calculated under subsection (11) of this section to  
9 the county board of equalization in accordance with the provisions of  
10 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of  
11 equalization to hear these appeals;

12 (d) Determination by the assessor, after giving the owner written  
13 notice and an opportunity to be heard, that:

14 (i) The land is no longer primarily devoted to and used for growing  
15 and harvesting timber. However, land shall not be removed from  
16 designation if a governmental agency, organization, or other recipient  
17 identified in subsection (13) or (14) of this section as exempt from  
18 the payment of compensating tax has manifested its intent in writing or  
19 by other official action to acquire a property interest in the  
20 designated forest land by means of a transaction that qualifies for an  
21 exemption under subsection (13) or (14) of this section. The  
22 governmental agency, organization, or recipient shall annually provide  
23 the assessor of the county in which the land is located reasonable  
24 evidence in writing of the intent to acquire the designated land as  
25 long as the intent continues or within sixty days of a request by the  
26 assessor. The assessor may not request this evidence more than once in  
27 a calendar year;

28 (ii) The owner has failed to comply with a final administrative or  
29 judicial order with respect to a violation of the restocking, forest  
30 management, fire protection, insect and disease control, and forest  
31 debris provisions of Title 76 RCW or any applicable rules under Title  
32 76 RCW; or

33 (iii) Restocking has not occurred to the extent or within the time  
34 specified in the application for designation of such land.

35 (6) Land shall not be removed from designation if there is a  
36 governmental restriction that prohibits, in whole or in part, the owner  
37 from harvesting timber from the owner's designated forest land. If  
38 only a portion of the parcel is impacted by governmental restrictions

1 of this nature, the restrictions cannot be used as a basis to remove  
2 the remainder of the forest land from designation under this chapter.  
3 For the purposes of this section, "governmental restrictions" includes:  
4 (a) Any law, regulation, rule, ordinance, program, or other action  
5 adopted or taken by a federal, state, county, city, or other  
6 governmental entity; or (b) the land's zoning or its presence within an  
7 urban growth area designated under RCW 36.70A.110.

8 (7) The assessor shall have the option of requiring an owner of  
9 forest land to file a timber management plan with the assessor upon the  
10 occurrence of one of the following:

- 11 (a) An application for designation as forest land is submitted; or
- 12 (b) Designated forest land is sold or transferred and a notice of  
13 continuance, described in subsection (5)(c) of this section, is signed.

14 (8) If land is removed from designation because of any of the  
15 circumstances listed in subsection (5)(a) through (c) of this section,  
16 the removal shall apply only to the land affected. If land is removed  
17 from designation because of subsection (5)(d) of this section, the  
18 removal shall apply only to the actual area of land that is no longer  
19 primarily devoted to the growing and harvesting of timber, without  
20 regard to any other land that may have been included in the application  
21 and approved for designation, as long as the remaining designated  
22 forest land meets the definition of forest land contained in RCW  
23 84.33.035.

24 (9) Within thirty days after the removal of designation as forest  
25 land, the assessor shall notify the owner in writing, setting forth the  
26 reasons for the removal. The seller, transferor, or owner may appeal  
27 the removal to the county board of equalization in accordance with the  
28 provisions of RCW 84.40.038.

29 (10) Unless the removal is reversed on appeal a copy of the notice  
30 of removal with a notation of the action, if any, upon appeal, together  
31 with the legal description or assessor's parcel numbers for the land  
32 removed from designation shall, at the expense of the applicant, be  
33 filed by the assessor in the same manner as deeds are recorded and a  
34 notation of removal from designation shall immediately be made upon the  
35 assessment and tax rolls. The assessor shall revalue the land to be  
36 removed with reference to its true and fair value as of January 1st of  
37 the year of removal from designation. Both the assessed value before  
38 and after the removal of designation shall be listed. Taxes based on

1 the value of the land as forest land shall be assessed and payable up  
2 until the date of removal and taxes based on the true and fair value of  
3 the land shall be assessed and payable from the date of removal from  
4 designation.

5 (11) Except as provided in subsection (5)(c), (13), or (14) of this  
6 section, a compensating tax shall be imposed on land removed from  
7 designation as forest land. The compensating tax shall be due and  
8 payable to the treasurer thirty days after the owner is notified of the  
9 amount of this tax. As soon as possible after the land is removed from  
10 designation, the assessor shall compute the amount of compensating tax  
11 and mail a notice to the owner of the amount of compensating tax owed  
12 and the date on which payment of this tax is due. The amount of  
13 compensating tax shall be equal to the difference between the amount of  
14 tax last levied on the land as designated forest land and an amount  
15 equal to the new assessed value of the land multiplied by the dollar  
16 rate of the last levy extended against the land, multiplied by a  
17 number, in no event greater than nine, equal to the number of years for  
18 which the land was designated as forest land, plus compensating taxes  
19 on the land at forest land values up until the date of removal and the  
20 prorated taxes on the land at true and fair value from the date of  
21 removal to the end of the current tax year.

22 (12) Compensating tax, together with applicable interest thereon,  
23 shall become a lien on the land which shall attach at the time the land  
24 is removed from designation as forest land and shall have priority to  
25 and shall be fully paid and satisfied before any recognizance,  
26 mortgage, judgment, debt, obligation, or responsibility to or with  
27 which the land may become charged or liable. The lien may be  
28 foreclosed upon expiration of the same period after delinquency and in  
29 the same manner provided by law for foreclosure of liens for delinquent  
30 real property taxes as provided in RCW 84.64.050. Any compensating tax  
31 unpaid on its due date shall thereupon become delinquent. From the  
32 date of delinquency until paid, interest shall be charged at the same  
33 rate applied by law to delinquent ad valorem property taxes.

34 (13) The compensating tax specified in subsection (11) of this  
35 section shall not be imposed if the removal of designation under  
36 subsection (5) of this section resulted solely from:

37 (a) Transfer to a government entity in exchange for other forest  
38 land located within the state of Washington;

1 (b) A taking through the exercise of the power of eminent domain,  
2 or sale or transfer to an entity having the power of eminent domain in  
3 anticipation of the exercise of such power;

4 (c) A donation of fee title, development rights, or the right to  
5 harvest timber, to a government agency or organization qualified under  
6 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
7 sections, or the sale or transfer of fee title to a governmental entity  
8 or a nonprofit nature conservancy corporation, as defined in RCW  
9 64.04.130, exclusively for the protection and conservation of lands  
10 recommended for state natural area preserve purposes by the natural  
11 heritage council and natural heritage plan as defined in chapter 79.70  
12 RCW or approved for state natural resources conservation area purposes  
13 as defined in chapter 79.71 RCW. At such time as the land is not used  
14 for the purposes enumerated, the compensating tax specified in  
15 subsection (11) of this section shall be imposed upon the current  
16 owner;

17 (d) The sale or transfer of fee title to the parks and recreation  
18 commission for park and recreation purposes;

19 (e) Official action by an agency of the state of Washington or by  
20 the county or city within which the land is located that disallows the  
21 present use of the land;

22 (f) The creation, sale, or transfer of forestry riparian easements  
23 under RCW 76.13.120;

24 (g) The creation, sale, or transfer of a fee interest or a  
25 conservation easement for the riparian open space program under RCW  
26 76.09.040; or

27 (h) The sale or transfer of land within two years after the death  
28 of the owner of at least a fifty percent interest in the land if the  
29 land has been assessed and valued as classified forest land, designated  
30 as forest land under this chapter, or classified under chapter 84.34  
31 RCW continuously since 1993. The date of death shown on a death  
32 certificate is the date used for the purposes of this subsection  
33 (13)(h).

34 (14) In a county with a population of more than (~~one million~~)  
35 five hundred thousand inhabitants, the compensating tax specified in  
36 subsection (11) of this section shall not be imposed if the removal of  
37 designation as forest land under subsection (5) of this section  
38 resulted solely from:

- 1 (a) An action described in subsection (13) of this section; or  
2 (b) A transfer of a property interest to a government entity, or to  
3 a nonprofit historic preservation corporation or nonprofit nature  
4 conservancy corporation, as defined in RCW 64.04.130, to protect or  
5 enhance public resources, or to preserve, maintain, improve, restore,  
6 limit the future use of, or otherwise to conserve for public use or  
7 enjoyment, the property interest being transferred. At such time as  
8 the property interest is not used for the purposes enumerated, the  
9 compensating tax shall be imposed upon the current owner.

10 **Sec. 2.** RCW 84.33.145 and 2001 c 249 s 4 are each amended to read  
11 as follows:

12 (1) If no later than thirty days after removal of designation the  
13 owner applies for classification under RCW 84.34.020 (1), (2), or (3),  
14 then the designated forest land shall not be considered removed from  
15 designation for purposes of the compensating tax under RCW 84.33.140  
16 until the application for current use classification under chapter  
17 84.34 RCW is denied or the property is removed from classification  
18 under RCW 84.34.108. Upon removal of classification under RCW  
19 84.34.108, the amount of compensating tax due under this chapter shall  
20 be equal to:

21 (a) The difference, if any, between the amount of tax last levied  
22 on the land as designated forest land and an amount equal to the new  
23 assessed valuation of the land when removed from classification under  
24 RCW 84.34.108 multiplied by the dollar rate of the last levy extended  
25 against the land, multiplied by

26 (b) A number equal to:

27 (i) The number of years the land was designated under this chapter,  
28 if the total number of years the land was designated under this chapter  
29 and classified under chapter 84.34 RCW is less than ten; or

30 (ii) Ten minus the number of years the land was classified under  
31 chapter 84.34 RCW, if the total number of years the land was designated  
32 under this chapter and classified under chapter 84.34 RCW is at least  
33 ten.

34 (2) Nothing in this section authorizes the continued designation  
35 under this chapter or defers or reduces the compensating tax imposed  
36 upon forest land not transferred to classification under subsection (1)

1 of this section which does not meet the definition of forest land under  
2 RCW 84.33.035. Nothing in this section affects the additional tax  
3 imposed under RCW 84.34.108.

4 (3) In a county with a population of more than (~~one million~~) five  
5 hundred thousand inhabitants, no amount of compensating tax is due  
6 under this section if the removal from classification under RCW  
7 84.34.108 results from a transfer of property described in RCW  
8 84.34.108(6).

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